

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:09-CR-253-1-F

UNITED STATES OF AMERICA

v.

ROBERT LEE McQUEEN,
Defendant.

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ORDER

This matter again is before the undersigned, this time on the defendant's Motion for Reconsideration [DE-139] of its January 27, 2012, order [DE-138] denying his motion for a copy of his trial transcripts at no charge. That order explained that McQueen had failed to state with particularity his need for a copy of his transcript. In the instant motion for reconsideration, McQueen explains that he did not understand the law at the time of his trial and, due to his age, "did not recall all stages of the events." Motion [DE-139] p. 1. He also explains he needs to review the transcripts in order to demonstrate how his appellate counsel (who also was his trial attorney) rendered ineffective assistance by filing an *Anders* brief on appeal. *See id.* p. 2. Alternatively, McQueen seeks an estimate of the cost for obtaining a copy of his transcripts.

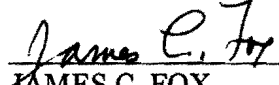
McQueen's Motion for Reconsideration [DE-139] is DENIED insofar as he seeks an order to provide him a copy of his transcripts without cost. Although McQueen has not yet filed a § 2255 motion, the prescribed standard form on which he must do so explicitly directs him not to cite law or advance legal arguments, and instructs that he only state the *factual grounds* upon which he bases his claim(s) that he is entitled to an order vacating, setting aside, or correcting his sentence pursuant to 28 U.S.C. § 2255. If McQueen intends to file a § 2255 motion, then he must already have discerned some factual basis upon which to base his argument that his constitutional rights were violated.

McQueen still has not articulated a particularized need for a copy of his transcript. However, the Clerk of Court is DIRECTED to provide McQueen a written estimate of the cost for

reproducing the transcripts filed herein. **McQueen is cautioned that the time within which he must file a § 2255 motion continues to run, and is not stayed or extended by virtue of his motions.**

SO ORDERED.

This, the 14th day of February, 2012.



JAMES C. FOX
Senior United States District Judge